



BILLING CODE 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R3-ES-2012-0036]

[FXES11120300000F2-134-FF03E15000]

**Final Environmental Impact Statement, Habitat Conservation Plan, and
Implementing Agreement and Draft Programmatic Agreement, Buckeye Wind
Power Project, Champaign County, Ohio**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: final environmental impact statement, habitat conservation plan, implementing agreement and draft programmatic agreement.

SUMMARY: Under the National Environmental Policy Act (NEPA), the U.S. Fish and Wildlife Service (Service) is advising the public of the availability of the final Environmental Impact Statement (FEIS) associated with an application received from Buckeye Wind, LLC (Buckeye Wind, applicant) for an incidental take permit (permit) pursuant to the Endangered Species Act of 1973, as amended (ESA). We also announce

the availability of the Buckeye Wind Power Project Habitat Conservation Plan (HCP), prepared in accordance with the ESA, and the availability of a Draft Programmatic Agreement (PA) to address the National Historic Preservation Act (NHPA) and its implementing regulations, “Protection of Historic Properties.” Buckeye Wind submitted the HCP, as well as a proposed Implementing Agreement (IA), as part of its incidental take permit application. If issued, the permit would authorize incidental take of the federally listed endangered Indiana bat (*Myotis sodalis*) from construction, operation, maintenance, and decommissioning associated with the Buckeye Wind Power Project. Buckeye Wind is requesting a 30-year permit term.

We request comments from the public on the permit application, the HCP, the IA, the FEIS, and the Draft PA, all of which are available for review. The Service is furnishing this notice to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to the ESA. For locations to review the documents, please see the Availability of Documents section below.

DATES: *Comments:* We will accept comments received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. The Service’s decision on issuance of the permit will occur no sooner than 30 days after the publication of the Environmental Protection Agency notice of the FEIS in the **Federal Register** and will be documented in a Record of Decision.

ADDRESSES: *Document availability:*

- *Internet:* You may obtain copies of the documents on the Internet at
<http://www.regulations.gov> (**Docket Number FWS–R3–ES–2012–0036**) or
<http://www.fws.gov/midwest/endangered/permits/hcp/r3hcps.html>.
- *U.S. Mail:* You can obtain the documents by mail from the Ecological Services Office in the Midwest Regional Office (see **FOR FURTHER INFORMATION CONTACT**).
- *In-Person:* To view hard copies of the documents in person, go to one of the Ecological Services Offices (8 a.m. to 4 p.m.) listed under **FOR FURTHER INFORMATION CONTACT**, or to one of the following libraries during normal business hours: Champaign County Library, 1060 Scioto Street, Urbana, OH 43078–2228; or North Lewisburg Branch, 161 Winder Street, North Lewisburg, OH 43060.

Comment submission: In your comment, please specify whether your comment addresses the HCP, the FEIS, the IA, or the PA. You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal:
<http://www.regulations.gov>. In the Search box, enter **FWS–R3–ES–2012–0036**, which is the docket number for this notice. Then, on the left side of the screen, under the Document Type heading, click on the Notices link to locate this document and submit a comment.
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R3–ES–2012–0036; Division of Policy and Directives

Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments by only the methods described above. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Megan Seymour, Fish and Wildlife Biologist, Ohio Ecological Services Field Office, U.S. Fish and Wildlife Service, 4625 Morse Road, Suite 104, Columbus, OH 43230; 614–416–8993, extension 16; or Rick Amidon, Fish and Wildlife Biologist, Ecological Services, Midwest Regional Office, U.S. Fish and Wildlife Service, 5600 American Blvd., West, Suite 990, Bloomington, MN 55437–1458; 612–713–5164.

SUPPLEMENTARY INFORMATION:

Background

We have received an application from Buckeye Wind, LLC, for an incidental take permit (TE66315A) under the ESA (16 U.S.C. 1531 et seq.). If approved, the permit would be for a 30-year period and would authorize incidental take of the Indiana bat.

The applicant has prepared a draft HCP to cover the construction, operation, maintenance, and decommissioning of the project. The project consists of a 100-turbine wind-powered electric generation facility located in an approximately 80,051-acre area

(the action area) located in portions of Union, Wayne, Urbana, Salem, Rush, and Goshen Townships, in Champaign County, Ohio. The draft HCP describes the following: (1) biological goals and objectives of the HCP; (2) the covered activities; (3) permit duration; (4) permit area; (5) alternatives to the taking that were considered; (5) public participation; (6) life history of the Indiana bat; (6) a quantification of the take for which authorization is requested; (7) an assessment of direct and indirect effects of the taking on the Indiana bat within the action area and within the Midwest Recovery Unit (as delineated in the 2007 Indiana Bat Draft Recovery Plan, USFWS); (8) a conservation program consisting of avoidance and minimization measures, mitigation, monitoring, and adaptive management; (9) funding for the HCP; (10) procedures to deal with changed and unforeseen circumstances; and (11) methods for permit amendments.

In addition to the HCP, the applicant has prepared an IA to document the responsibilities of the parties.

Pursuant to the NHPA (16 U.S.C. 470, 470f), the Service has initiated Section 106 consultation with the Ohio State Historic Preservation Office for the project.

Architectural surveys have been completed for the full 100-turbine project. Only 52 turbines have been sited to date. Thus, archaeological surveys have only been conducted for the 52-turbine Project footprint. Therefore, additional effort will be required to identify archaeological sites and historic properties that may be adversely affected within the footprint of the remaining 48 turbines and associated infrastructure. Following siting of the additional 48 turbines, additional archaeological surveys will be conducted, with plans and reports submitted to the Ohio State Historic Preservation Office for review. The draft PA between the Service, Buckeye Wind, and Ohio State Historic Preservation

Office describes the process for conducting the remaining surveys, evaluating the results of the surveys, and determining if resources can be avoided or if additional surveys or mitigation are necessary before the Section 106 process is completed. The final PA will be signed prior to issuance of the EIS Record of Decision. The Section 106 process will be completed prior to Project construction beginning. Public comments are solicited on the content of the draft PA.

Public Involvement

Public scoping for the Draft EIS was first initiated in the form of a Notice of Intent to conduct a 30-day scoping period for a NEPA decision on the proposed HCP and permit and request for comments, published in the **Federal Register** on January 29, 2010 (75 FR 4840). The Service formally initiated an environmental review of the project through publication of a Notice of Intent to prepare an Environmental Impact Statement in the **Federal Register** on May 26, 2010 (75 FR 29575). Utilizing the public scoping comments, the Service prepared a draft EIS to analyze the effects of the alternatives on the human environment. The draft EIS was released for a 90-day public comment on June 29, 2012 (77 FR 38819). A public meeting was held on July 12, 2012, at the Champaign County Community Center Auditorium, 1512 S. U.S. Highway 68, Urbana, OH to solicit additional input from the public on the HCP and Draft EIS. The official comment period ended on September 27, 2012.

Public Comments

You may submit your comments and materials concerning the notice by one of the methods listed in **ADDRESSES**. We request that you send comments only by one of the methods described in **ADDRESSES**.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. We will post all hardcopy comments on <http://www.regulations.gov> as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as documents associated with the notice, will be available for public inspection on <http://www.regulations.gov> at **Docket No. FWS–R3–ES–2012–0036**, or by appointment, during normal business hours, at the Ohio Ecological Services Field Office in Columbus, Ohio (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531, 1539(c)) and its implementing regulations (50 CFR 17.22), NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR Part 46), and Section 106 of the NHPA (16 U.S.C. 470, 470f) and its implementing regulations (36 CFR Part 800). We will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA. A permit decision will be made no sooner than 30 days after the publication of the EPA's

FEIS notice in the Federal Register and completion of the Record of Decision. If we determine that all requirements are met, we will issue an incidental take permit under section 10(a)(1)(B) of the ESA to Buckeye Wind for take of the Indiana bat, incidental to otherwise lawful activities in accordance with the HCP, the IA, and the permit.

Dated: April 4, 2013.

**Lynn Lewis,
Assistant Regional Director,
Ecological Services,
Midwest Region.**

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